

REMARKS

Claims 1-10 are pending in this application. Claims 1-10 are rejected under the judicially created doctrine of obviousness type double patenting as being unpatentable over claims 1-33 of U.S. 6,542,161 in view of Hitchcock. This rejection is respectfully traversed in view of the following remarks.

It is respectfully submitted that the Office Action of June 30, 2004, has not presented a *prima facie* case of obviousness type double patenting. The Office Action includes certain language from claim 1 of the '161 patent, but then indicates that it would have been obvious to use "the bitmap character representation as taught by Hitchcock into the device of Patent '161 ..." (emphasis added). It is respectfully submitted that the "device" disclosed in the '161 patent is not prior art - only the claims of this patent can be used in making a double patenting rejection. See MPEP 804 (III) ("one significant difference [between obviousness-type double patenting and 103(a) rejections] is that a double patenting rejection must rely on a comparison of the claims in an issued or to be issued patent whereas an obviousness rejection based on the same patent under 35 U.S.C. 102(e)/103(a) relies on a comparison with what is disclosed (whether or not claimed) in the same issued or to be issued patent). Because the Office Action has improperly relied on the specification of the '161 patent, which is not prior

art, it is respectfully submitted that the obviousness-type double patenting rejection is improper and should be withdrawn.

Moreover, it is respectfully submitted that the claims of the present application patentably distinguish over the claims of the '161 patent in view of the prior art. The Office Action provides no grounds for finding that one reading claim 1 of the '161 patent in view of the Hitchcock reference would find the invention claimed in the present application to be obvious. For this reason as well, it is respectfully submitted that claims 1-10 of the present application are allowable.

Conclusion

The sole issue raised in the Office Action dated June 30, 2004, has been addressed, and it is believed that claims 1-10 are in condition for allowance. Wherefore, reconsideration and allowance of these claims is earnestly solicited.

Pursuant to 37 C.F.R. §§ 1.17 and 1.136(a), Applicant(s) respectfully petition(s) for a three (3) month extension of time for filing a reply in connection with the present application, and the required fee of \$1,020.00 is attached hereto.

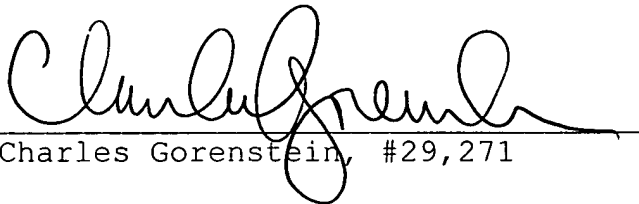
Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Scott Wakeman (Reg. No. 37,750) at the telephone number of the undersigned below, to conduct an interview

in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

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